

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 03-0180P

**Sales & Use Tax
Calendar Year 2000**

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

The taxpayer protests the interest assessment.

STATEMENT OF FACTS

The taxpayer was assessed penalty and interest on a sales and use tax audit conducted by the Department for the calendar year 2000.

The taxpayer is a contractor engaged in the underground installation of cable for utility company contractors. The taxpayer is domiciled in Indiana with one business location.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the penalty and interest be waived as the company is a new company and the penalty and interest represent substantial amounts.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer's penalty protest is denied.

II. Tax Administration – Interest

DISCUSSION

The taxpayer protests the interest assessment.

IC 6-8.1-10-1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

FINDING

The taxpayer's interest protest is denied.